

Inventor Name: DARRELL A. POIRIER
Serial No. 10/763,966
Reply to Office Action of: June 4, 2008

REMARKS/ARGUMENTS

Claims 22- 42 remain in the case.

Applicant has previously deleted former Claims 1-21, and previously added Claims 22 - 42, in order to more clearly define the present invention. More specifically, a new claims 22 – 42 more clearly define the invention that was previously claimed in claims 7, 8, 9, 20, and 21. All of these claims, simply stated, recite a system for transferring the a user's access rights and voice-to-text training from one computer to another computer that does not have those benefits.

The present Claims 22- 42, recite more clearly, the features and aspects of the present invention that are neither described nor enabled by the prior art reference cited by the Examiner. The recitation of those features and aspects in Claims 22- 42 appear to render those claims patentable over the references cited thusfar. The Examiner apparently does not disagree with this conclusion because the Examiner has withdrawn his rejections under Section 102.

NEW SECTION 101 REJECTION

However, in the most recent Office Action, the Examiner has raised a new ground for rejection, namely Section 101. Because the Examiner alleges that the

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raising of this new ground for rejection was necessitated by the Examiner's amendments, namely the adding of claims 22 – 42, the Examiner has issued a final rejection, even though this new grounds for rejection was raised for the first time in this Office Action, and, if, applicable to the new claims, appear to have also been applicable to the prior claims.

The Examiner rejected claims 22 – 42 under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. The Examiner argues that "Claims 22 – 42 are nonstatutory under the recent interpretation of the Interim Guidelines regarding 35 U.S.C. 101 because this claim is toward a computer program, and as claimed, does not define any structural or functional interrelationship between the computer program and other claimed elements of a computer which permit the computers program's functionality can be realized.

First of all, applicant suggests that the Examiner is obligated to establish a *prima facie* case of non-statutory subject matter in order to support this rejection. The Examiner has not specifically pointed out, nor has the applicant been able to find, any absolute requirement that statutory subject matter only exists in a claim to a computer program if the claim includes and defines a structural or functional

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interrelationship between a computer program and other claimed elements of the computer which permit the computer program functionality to be realized.

Both of the cases cited by the Examiner appear to make this requirement a sufficient condition for patentability, not a necessary condition. Thus, if a claim has this characteristic, it is sufficient to establish statutory subject matter. However, the claims seem to say that, if a claim does not have this characteristic, it can satisfy the statutory subject matter requirement in other ways. Thus, applicant suggests that the Examiner has not established a *prima facie* case of non-statutory subject matter, and is therefore not satisfied the requirements of this rejection. Therefore the rejection should be withdrawn.

On the other hand, even if the Examiner's interpretation of the Interim Guidelines were correct, the present claims 22 – 42 satisfy that criteria. Simply stated, the present invention concerns speech recognition or voice-to-text computers. At the time that the present invention was made, the most advanced type of software that operates the speech recognition computers had developed the capability of improving its functionality in converting the voice of a specific user to text, as the software gathered experience in working with a specific user over time. In other words, the more that a specific user used the program, the better the program would be able to accurately translate the specific user's voice into correct

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text. This a learning capability along with other identifying materials and access information and capabilities associated with a specific user were generally called the users "Voice Model". In general, the Voice Model would be associated with a specific user on a specific trained computer.

Applicant discovered that it was possible to identify and capture those aspects of the trained computer and transfer those aspects to a new computer, not similarly trained, and this transfer would allow the second untrained computer to operate as if it was the original trained computer with regard to the accuracy of the translation from voice to text. Simply stated, this invention transfers the Voice Model from one computer to another.

If the Examiner's interpretation of the Interim Guidelines is correct, then a computer program claim is statutory subject matter if the claim defines any structural or functional interrelationship between the computer program and other claimed elements the computer which permit the computer up programs functionality to be realized. In the present claims, simply stated, the software application begins by recording the first user's voice model and enrollment entries, that are stored on the first computer and stores in that voice model enrollment entries in a recoverable form. Then the application transfers the voice model and enrollment entries to a second computer. Then the application and enrolls the first user in the second

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computer so that the second computer acquires the enhanced acquired voice-to-text translation functionality that existed in the first computer.

The present claims 22 – 42 specifically recite structural and functional interrelationship's between the computer program and other claimed elements of the computer that permit computer programs functionality to be realized. Simply stated, the claimed software application captures certain data present in one computer and transfers that data to a second computer so that the second computer has the capabilities that the transferred data provided to the first computer.

This claimed invention is just as much a statutory product or a statutory process as any non-computer related invention. This invention is simply a product and process that enhance the functionality of any computer, specifically with regard to that computer's ability to translate voice into text. It does not involve mathematical expressions, it does not involve laws of nature, it does not involve mathematical algorithms. It is just as much statutory subject matter as a product and process for recording the profile of a key that unlocks a lock and using that profile to machine a new key, so that the new key can also unlock the lock. In that sense, the rules of statutory subject matter for this type of computer-related invention are no different from the rules that apply to any other invention in any other technology.

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To use the language of the Interim Guidelines and the M.P.E.P., this invention does not attempt to claim an "abstract idea, law of nature, or natural phenomena". But even if it did, the claimed invention transforms an article or physical object into a different state or thing (it transforms the second computer into a more accurate translator of the user's voice to text), and it provides a useful, concrete, and tangible result (it transforms the second computer into a more accurate translator of the user's voice to text). Thus, according to the Interim Guidelines and the M.P.E.P., the subject matter of the present claims is statutory subject matter.

THE FINAL REJECTION

Applicant respectfully suggests that the new claims 22 – 42 cover the same subject matter as former claims 7, 8, 9, 20, and 21, and therefore, the addition of claims 22 through 42, did not raise the new ground for rejection. If the Examiner's rejection of new claims 22 – 42 were correct, and that ground for rejection would also apply to the original claims 7, 8, 9, 20, and 21, and the raising of this new ground for rejection would not be caused by the recent amendment of the claims.

More specifically, original claim 9 reads:

9. A software application as in claim 7 named Voice Model Mobility that provides moving voice-recognition user voice models between voice recognition

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systems using transfer mediums of removable disks, writable CDs, networks, memory storage devices and credit card type magnetic strips.

Clearly, original claim 7 is directed to the transfer of voice models from one computer to another which is the subject matter of the present claims.

Therefore, applicant suggests that the final rejection was premature, and should be withdrawn to allow the applicant to address this new ground for rejection. Applicant requests that the final rejection be withdrawn.

CONCLUSION

In view of the above amendments and comments, it appears that this case is now in condition for a Notice of Allowance. Such further and favorable action is requested.

Respectfully submitted,
BLODGETT & BLODGETT, P.C.



Gerry A. Blodgett
Attorney for Applicant
Registration No. 26,090

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CUSTOMER NUMBER 20433
BLODGETT & BLODGETT, P.C.
43 Highland Street
Worcester, Massachusetts 01609-2797
(508) 753-5533